

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ESTATE OF BIANCA DEVINS,

Plaintiff,

v.

**NOTICE OF MOTION**

6:21-CV-00802 (GTS/ATB)

ONEIDA COUNTY, ONEIDA COUNTY  
DISTRICT ATTORNEY'S OFFICE, SCOTT  
D. MCNAMARA, JOHN DOES 1-20,

Defendants.

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MOTION ON BEHALF OF:

Defendants, ONEIDA COUNTY,  
ONEIDA COUNTY DISTRICT  
ATTORNEY'S OFFICE, SCOTT D.  
MCNAMARA.

DATE, TIME & PLACE OF MOTION: \_\_\_\_\_, 2021 at \_\_\_\_\_ a.m.  
ON SUBMISSION

RELIEF DEMANDED:

An Order, pursuant to Rule 12(b)(1)-(6) of the Federal Rules of Civil Procedure, dismissing plaintiff's complaint, together with any other relief the Court deems just and proper, on grounds that:

- 1) the Court lacks subject matter jurisdiction over the state law causes of action for negligence and negligent supervision because plaintiff has not strictly complied with conditions precedent to commencing a lawsuit under General Municipal Law §50-e-i-h and County Law §52;

- 2) the Court further lacks subject matter jurisdiction over the claims of violations of 18 U.S.C. §§ 2252A and 2255 on grounds that Plaintiff lacks standing, or;
- 3) plaintiff has failed to state a cause of action against the defendants.

**SUPPORTING PAPERS:**

Exhibits A-B and Defendants' Memorandum of Law, dated August 13, 2021.

**ANSWERING AFFIDAVITS:**

Pursuant to Local Rule 7.1(b)(1) all papers filed in opposition to this motion must be filed with the Court and served on Defendants no later than \_\_\_\_\_.

**REPLY PAPERS:**

Pursuant to Local Rule 7(b)(1), Defendants hereby advise of their intention to file and serve reply papers.

**DATED:** August 13, 2021

KENNEY SHELTON LIPTAK NOWAK LLP



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